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THE CITY OF NEW YORK  
LAW DEPARTMENT

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July 16, 2021

Via ECF

Honorable Alison J. Nathan  
United States District Court  
Southern District of New York  
40 Foley Square, Courtroom 906  
New York, New York 10007

Re: *E.W. on behalf of herself and her child, Z.K. v. N.Y.C. Dep't of Educ., et al*, 21-CV-1140

Dear Judge Nathan:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel, counsel for Defendants in the above-referenced action. I write jointly with Plaintiffs' counsel to respectfully request a further adjournment of the initial pretrial conference in this matter, which is currently scheduled for July 23, 2021. This is the parties' second request to adjourn the initial pretrial conference. The conference was previously adjourned in light of the extension of Defendants' time to respond to the Complaint.

This matter involves claims under Section 504 of the Rehabilitation Act, 29 U.S.C. § 749, the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq* (the "IDEA"), and 42 U.S.C. § 1983. Plaintiffs' claims involve, *inter alia*, the creation of compensatory banks for special education related services and payments for services rendered pursuant to administrative orders. Plaintiffs seek, *inter alia*, equitable relief based on alleged

violations of minor student Z.K.'s rights, in addition to attorneys' fees, costs, and expenses related to the underlying administrative proceedings and this federal action.

As indicated in the parties' prior letters to the Court, the parties are interested in trying to resolve this matter. In order to do so, Plaintiffs have requested information about the number of hours remaining in the compensatory banks awarded under the Findings of Fact and Decisions (FOFDs) in the underlying administrative matters. I have undertaken a review and analysis of the records pertaining to these compensatory banks used by the Department of Education (DOE). DOE has made payments pursuant to the awarded banks for most types of related services. However, the FOFDs contain discrepancies in the start and end dates for the compensatory periods awarded. As a result, the funds remaining in the compensatory banks for the various related services under each FOVD are not easily discernable. This is further complicated by the manner in which payments are requested and invoices are submitted by different service providers and the fact that the rates of services changed over time, adding to the complexities of the banks at issue. Accordingly, DOE is conducting additional reviews of this information so that this Office may provide Plaintiffs' counsel with an accurate accounting in the next three weeks. The parties will then be able to discuss how to move this matter forward towards a resolution. The parties will also have a better sense whether any discovery is necessary at that time.

The parties also request the adjournment because I will be departing the Law Department next week, and this case will shortly be reassigned to a new attorney who will file a notice of appearance within the next week.

The parties therefore respectfully request a 90-day adjournment of the initial pretrial conference to work through the complexities of trying to resolve this matter. The parties are available October 22 and 29 and November 5, 2021 for the initial conference.

Thank you for your consideration of this request.

Respectfully submitted,

/s/  
Rosemary C. Yogiaveetil  
Assistant Corporation Counsel

cc:

**Via ECF**

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The initial pretrial conference scheduled for July 23,  
2021, is adjourned to October 29, 2021, at 3:15 p.m.  
SO ORDERED.

